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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,232	11/09/2001	Fred C. Webb	01-1147	9871

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EXAMINER

STRIMBU, GREGORY J

ART UNIT

PAPER NUMBER

3634

DATE MAILED: 09/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/045,232

Applicant(s)

WEBB ET AL.

Examiner

Gregory J. Strimbu

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Specification

The abstract of the disclosure is objected to because "to latching rod" on line 6 is grammatically awkward and confusing. Correction is required. See MPEP § 608.01(b).

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It is suggested that the applicant amend the title to include the sliding nature of the device. See claim 1.

Claim Rejections - 35 USC § 112

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "to latching rod" on line 7 of claim 1 render the claims indefinite because it is unclear if the applicant is referring to the latching rod set forth above or is attempting to set forth another latching rod in addition to the one set forth above. Recitations such as "moved to a partly open position" on lines 1-2 of claim 4 render the claims indefinite because it is unclear what the applicant is attempting to set forth. When is the door moved to the partly open position? Recitations such as "the door" on line 1 of claim 5 render the claims indefinite because they lack antecedent basis. Recitations such as "the receptacle" on line 2 of claim 8 render the claims indefinite because they lack antecedent basis. Recitations such as "for comprising" on line 1 of claim 10 render the claims indefinite because it is unclear what the applicant is attempting to set forth.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 5, 9, 10 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Denker. Denker discloses a device for opening a door 18, the device comprising a receptacle structure 30 coupled to the door 18, the receptacle structure having a top surface (not numbered, but shown in figure 6A) and an angled guide surface (not numbered, but seen in figure 6A), the top surface forming an angled protrusion (not numbered, but seen as the 90 degree portion adjacent the guide receptacle 28), the receptacle structure having a receptacle 28 formed between the top surface and the angled guiding surface, a latching rod 24, a sliding assembly 25 coupled to latching rod, wherein movement of the latching rod causes the latching rod to contact the angled protrusion, and wherein the contact of the latching rod with the angled protrusion of the receptacle structure causes the rod to push the receptacle structure and the door and causes the latching rod to navigate across the angled guiding surface of the receptacle structure.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 6, 7, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Denker as applied to claims 1, 4, 5, 9, 10 and 13 above. Denker is silent concerning the particular angles of the angled protrusion and the angled guiding surface. However, one of ordinary skill in the art is expected to routinely experiment with parameters so as to ascertain the optimum or workable ranges for a particular use. Accordingly, it would have been no more than an obvious matter of engineering design choice, as determined through routine experimentation and optimization, for one of ordinary skill to provide the angled protrusion with an angle of approximately 30 degree with a vertical axis to increase the movement of the door when the latching rod engages the angled protrusion and to provide the angled guiding surface with an angle of approximately 57 degrees with a vertical axis to improve the aesthetics of the device.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Denker as applied to claims 1, 4, 5, 9, 10 and 13 above. The use of the apparatus of Denker would inherently lead to the method steps set forth in claim 8.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Denker as applied to claims 1, 4, 5, 9, 10 and 13 above, and further in view of Gratz. Gratz discloses a foot pedal 13 operated door device.

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It would have been obvious to one of ordinary skill in the art to provide Denker with a foot pedal, as taught by Gratz, to increase the ease with which the door device can be operated.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Smith et al., Rainey et al., Kuhnt et al., Tillman, Deviny et al., Erickson, Rosebrook, O'Connor, Chruden, Simonton, Stephenson, Tower and Zerfas et al. are cited for disclosing a device for operating a door.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 703-305-3979. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.



Gregory J. Strimbu
Primary Examiner
Art Unit 3634
September 17, 2003